



ORGANIZATION FOR THE PROTECTION
AND ADVANCEMENT OF SMALL
TELEPHONE COMPANIES

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November 5, 1993

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

Re: AT&T Petition for the Establishment
of Additional Standards to Govern
Study Area Boundary Changes in
Connection with the Transfer of
Service Territories Between or
Among Local Exchange Carriers
RM-8334

Dear Mr. Caton:

Please find enclosed for filing the original and eleven copies of the Organization for the Protection and Advancement of Small Telephone Companies' reply comments in the above-captioned proceeding.

Thank you for your assistance in this matter.

Sincerely,

Lisa M. Zaina
General Counsel

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

NOV. - 5 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

AMERICAN TELEPHONE AND)
TELEGRAPH COMPANY)

RM-8334

Petition for the Establishment)
of Additional Standards to Govern Study)
Area Boundary Changes in Connection)
with the Transfer of Service Territories)
Between or Among Local Exchange Carriers)

**REPLY COMMENTS OF
THE ORGANIZATION FOR THE PROTECTION AND
ADVANCEMENT OF SMALL TELEPHONE COMPANIES**

OPASTCO
21 Dupont Circle, NW
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Before the
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**REPLY COMMENTS OF
 THE ORGANIZATION FOR THE PROTECTION AND
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I. INTRODUCTION

On September 3, 1993, The American Telephone and Telegraph Company (AT&T) filed a petition for rulemaking with the Federal Communications Commission (FCC or Commission) requesting that the FCC establish additional standards to govern the study area boundary changes that occur in connection with the transfer of service territories between or among local exchange carriers.¹ The impetus behind AT&T's request is to contain the growth of the Universal Service Fund (USF). The Organization for the

¹In the Matter of AMERICAN TELEPHONE AND TELEGRAPH COMPANY
Petition for the Establishment of Additional Standards to Govern
Study Area Boundary Changes in Connection with the Transfer of
Service Territories Between or Among Local Exchange Carriers, RM-
 8334, September 3, 1993. (AT&T Petition)

Protection and Advancement of Small Telephone Companies (OPASTCO) urges the Commission to reject AT&T's request for rulemaking and ensure that the requests for study area waivers attendant to the transfer of service territories are processed on an expedited basis in order to aid the consumers in the realization of the advantages of these transfers of exchanges to the small and rural local exchange carriers (LECs).

OPASTCO is a national trade association of more than 430 independently owned and operated telephone companies serving rural areas of the United States and Canada. Its members, which include both commercial companies and cooperatives, together serve almost two million customers. Many of OPASTCO's members receive USF, and with the aid of this program have been able to bring a modern communications network capable of delivering advanced services to their customers. Additionally, some OPASTCO members have purchased rural exchanges from larger LECs and it is very important that USF is available to upgrade these exchanges, many of which still have step switches and multi-party service. It is through the USF that the LECs purchasing these exchanges will be able to replace these obsolete technologies with an advanced communications network for the benefit of their customers.

II. COMMENTS

OPASTCO opposes AT&T's petition for rulemaking. AT&T requests that the "Commission's current criteria for addressing such waivers under a public interest standard be made more

specific..."² AT&T is not seeking modification of the Commission's current public interest standard, but creation of an AT&T interest standard. AT&T claims that the frozen study area definition was adopted "to control growth of the USF that could otherwise result from study area boundary changes."³ This is somewhat true, however, as the National Rural Telecom Association (NRTA) indicates, the far more significant reason was to eliminate the disincentive for purchase of or expansion into high cost areas.⁴ Preservation of adequate high cost support for acquired high cost areas was clearly of paramount importance in the decision made to freeze the study area definition. AT&T, in its attempt to create the AT&T interest standard, has suggested a "solution" which is clearly at odds with the purpose of the frozen study area definition and as, expressed by NRTA, the basic rate parity purpose of the USF.⁵

AT&T points to a recent "FCC acknowledgment" that the high cost fund has grown as support for its contention that the current study area waiver requirements are not sufficiently specific to satisfactorily resolve the issue of any associated growth of the fund.⁶ As NRTA correctly points out, orders taken under delegated authority cannot change the established policies

²Id.

³Id.

⁴NRTA at 3.

⁵Id. at 3.

⁶AT&T Petition at 9.

of the Joint Board and the FCC of encouraging acquisition of high cost exchanges. Thus, unless and until there is a Joint Board proceeding undertaken pursuant to the Communications Act, the FCC cannot establish rules that will thwart their current goals of encouraging the purchase of these high cost exchanges.⁷

In AT&T's many attempts to attack the USF, it has instead shown that its allegations about the burdens on interstate ratepayers are unsubstantiated. AT&T estimates that unless the Commission acts to contain their effects, the sales of the high cost exchanges could increase the USF by as much as \$400 million annually.⁸ It makes this statement, yet provides no explanation for its claims. The use of \$400 million as the amount of the burden on the interstate ratepayers is ironic considering that as recently as July 23, 1993, AT&T claimed that the increase would be \$550 million annually.⁹ This figure is almost one third larger than the estimate in the AT&T Petition. OPASTCO understands that estimates may change with changing conditions, however, since AT&T made no mention that it was revising a prior "estimate" it leads one to believe that neither was made in a reliable fashion. The estimates seem not to add to the

⁷47 U.S.C. Section 410(c)

⁸AT&T at 8.

⁹Support Mechanisms, presented by Roger L. Riggert, Regulatory Director, at National Association of Regulatory Utility Commissioners (NARUC) Staff Subcommittee Issues Workshop, p. 4. (July 23, 1993).

intelligence of the ongoing USF debate, but to incite possibly inappropriate action on the part of the Joint Board and the FCC. Perhaps that is AT&T's purpose.

AT&T urges the Commission to require that the purchaser of an exchange demonstrate the extent to which the purchase will benefit the public interest. Furthermore, AT&T asks that the purchaser provide information regarding the amount of any upgrades that will be borne by the ratepayer. OPASTCO agrees with NRTA that AT&T requests that the FCC undertake activities that are rendered impermissible by the Communications Act¹⁰.

The Commission has announced a two year inquiry into all aspects of the USF. With this in mind, OPASTCO agrees with the National Telephone Cooperative Association (NTCA) that there will be many opportunities to examine the concerns raised by AT&T in its petition.¹¹

¹⁰47 U.S.C. Section 152(b)(1)

¹¹NTCA at 8.

III. CONCLUSION

OPASTCO urges the FCC to deny AT&T's petition for rulemaking. OPASTCO believes that the request is inconsistent with current Joint Board and FCC policy and could impede efforts to bring advanced services to all parts of the nation. Moreover, the FCC is undertaking a comprehensive review of the USF and OPASTCO believes that AT&T's concerns can be adequately reviewed in that proceeding.

Respectfully submitted,

The Organization for the
Protection and Advancement of
Small Telephone Companies

By: 

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November 5, 1993

CERTIFICATE OF SERVICE

I, Megan A. Gillispie, hereby certify that a copy of OPASTCO's reply comments was sent on this, the 5th day of November, 1993, by first class United States mail, postage prepaid, to those listed below.



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